

Florida Senate - 2005

SB 1886

By the Committee on Community Affairs

578-1071B-05

1                                   A bill to be entitled  
2           An act relating to local government; amending  
3           s. 163.3246, F.S.; revising various provisions  
4           of the Local Government Comprehensive Planning  
5           Certification Program; specifying the duties of  
6           the state land planning agency rather than the  
7           Department of Community Affairs in order to  
8           conform to other provisions governing planning  
9           and development; revising the requirements for  
10          a local government to obtain certification  
11          under the program; requiring that the local  
12          government develop a map, certain plans, and  
13          disaster strategies; revising requirements for  
14          public hearings; deleting provisions limiting  
15          the number of certification agreements each  
16          fiscal year; revising the requirements for  
17          filing a petition for an administration hearing  
18          concerning an agreement; providing that an  
19          application for development approval within a  
20          certified area is exempt from review as a  
21          development of regional impact if a local  
22          government does not request review of such  
23          development in its application for  
24          certification; deleting provisions requiring a  
25          biennial report to the Governor and Legislature  
26          by the state land planning agency; amending s.  
27          212.055, F.S.; providing for the levy of the  
28          local government infrastructure surtax pursuant  
29          to an ordinance enacted by a majority of the  
30          county governing body; authorizing a majority  
31          of a county's governing body to levy the school

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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1 capital outlay surtax with certain limitations;  
2 requiring a citizen's review and oversight  
3 board for the levy or extension of certain  
4 surtaxes; amending s. 336.025, F.S.; providing  
5 for the local option fuel tax to be levied by a  
6 majority of the governing body of the county  
7 rather than by a super majority of the  
8 governing body; creating s. 201.032, F.S.;  
9 authorizing county governing authorities, by  
10 ordinance, to levy a surtax on deeds and other  
11 documents taxed under s. 201.02, F.S.;  
12 establishing a maximum rate of the surtax;  
13 requiring the grantor to pay the surtax;  
14 exempting certain documents from the surtax;  
15 requiring that the surtax be approved by  
16 referendum or adopted by an extraordinary vote  
17 of the governing authority; requiring the  
18 governing authority to notify the Department of  
19 Revenue of the imposition, termination, or rate  
20 change of the surtax; restricting the effective  
21 dates for imposing a surtax or changing the tax  
22 rate; requiring a ballot statement and  
23 providing a format; providing for the use of  
24 surtax proceeds; requiring the Department of  
25 Revenue to administer the surtax and providing  
26 for administrative costs of the department;  
27 exempting the surtax from s. 201.15, F.S.,  
28 relating to distribution; restricting uses of  
29 the surtax proceeds; requiring a report to the  
30 Department of Financial Services; restricting  
31 the imposition or increase of other impact fees

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1 if the governing authority imposes the surtax;  
2 requiring the Department of Revenue to adopt  
3 forms; requiring the use of such forms when the  
4 surtax is paid; authorizing the clerk of the  
5 court to collect a fee; authorizing the  
6 Department of Revenue to adopt emergency rules;  
7 providing an exception when there is a  
8 dissolution of marriage; providing an effective  
9 date.

10  
11 Be It Enacted by the Legislature of the State of Florida:

12  
13 Section 1. Section 163.3246, Florida Statutes, is  
14 amended to read:

15 163.3246 Local government comprehensive planning  
16 certification program.--

17 (1) There is created the Local Government  
18 Comprehensive Planning Certification Program to be  
19 administered by the state land planning agency ~~Department of~~  
20 ~~Community Affairs~~. The purpose of the program is to create a  
21 certification process for a local government which, based on  
22 ~~governments who identify a geographic area for certification~~  
23 ~~within which they commit to directing growth and who, because~~  
24 ~~of a demonstrated record of effectively adopting,~~  
25 ~~implementing, and enforcing its comprehensive plan; an~~  
26 enhanced, ~~the level of technical planning, financial, and~~  
27 administrative expertise; experience exhibited by the local  
28 ~~government,~~ and a commitment to implement exemplary planning  
29 practices, requires ~~require~~ less state and regional oversight  
30 of the comprehensive plan amendment process. ~~The purpose of~~  
31 ~~the certification area is to designate areas that are~~

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1 ~~contiguous, compact, and appropriate for urban growth and~~  
2 ~~development within a 10-year planning timeframe.~~  
3 ~~Municipalities and counties are encouraged to jointly~~  
4 ~~establish the certification area, and subsequently enter into~~  
5 ~~joint certification agreement with the department.~~  
6 (2) Any development within the certification area must  
7 be consistent with the local comprehensive plan required under  
8 this part. In order to be eligible for certification under the  
9 program, the local government must:  
10 ~~(a) Demonstrate a record of effectively adopting,~~  
11 ~~implementing, and enforcing its comprehensive plan;~~  
12 ~~(b) Demonstrate technical, financial, and~~  
13 ~~administrative expertise to implement the provisions of this~~  
14 ~~part without state oversight;~~  
15 ~~(c) Obtain comments from the state and regional review~~  
16 ~~agencies regarding the appropriateness of the proposed~~  
17 ~~certification;~~  
18 ~~(d) Hold at least one public hearing soliciting public~~  
19 ~~input concerning the local government's proposal for~~  
20 ~~certification, and~~  
21 ~~(e) Demonstrate that it has adopted programs in its~~  
22 ~~local comprehensive plan and land development regulations~~  
23 ~~which:~~  
24 1. Promote infill development and redevelopment,  
25 including prioritized and timely permitting processes in which  
26 applications for local development permits within the  
27 certification area are acted upon expeditiously for proposed  
28 development that is consistent with the local comprehensive  
29 plan.  
30 2. Promote the development of housing for low income  
31 and very low income households or specialized housing to

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- 1 ~~assist elderly and disabled persons to remain at home or in~~  
2 ~~independent living arrangements.~~
- 3 ~~3. Achieve effective intergovernmental coordination~~  
4 ~~and address the extrajurisdictional effects of development~~  
5 ~~within the certified area.~~
- 6 ~~4. Promote economic diversity and growth while~~  
7 ~~encouraging the retention of rural character, where rural~~  
8 ~~areas exist, and the protection and restoration of the~~  
9 ~~environment.~~
- 10 ~~5. Provide and maintain public urban and rural open~~  
11 ~~space and recreational opportunities.~~
- 12 ~~6. Manage transportation and land uses to support~~  
13 ~~public transit and promote opportunities for pedestrian and~~  
14 ~~nonmotorized transportation.~~
- 15 ~~7. Use design principles to foster individual~~  
16 ~~community identity, create a sense of place, and promote~~  
17 ~~pedestrian oriented safe neighborhoods and town centers.~~
- 18 ~~8. Redevelop blighted areas.~~
- 19 ~~9. Adopt a local mitigation strategy and have programs~~  
20 ~~to improve disaster preparedness and the ability to protect~~  
21 ~~lives and property, especially in coastal high hazard areas.~~
- 22 ~~10. Encourage clustered, mixed use development that~~  
23 ~~incorporates greenspace and residential development within~~  
24 ~~walking distance of commercial development.~~
- 25 ~~11. Encourage urban infill at appropriate densities~~  
26 ~~and intensities and separate urban and rural uses and~~  
27 ~~discourage urban sprawl while preserving public open space and~~  
28 ~~planning for buffer type land uses and rural development~~  
29 ~~consistent with their respective character along and outside~~  
30 ~~the certification area.~~  
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- 1       ~~12. Assure protection of key natural areas and~~  
2 ~~agricultural lands that are identified using state and local~~  
3 ~~inventories of natural areas. Key natural areas include, but~~  
4 ~~are not limited to:~~  
5       ~~a. Wildlife corridors.~~  
6       ~~b. Lands with high native biological diversity,~~  
7 ~~important areas for threatened and endangered species, species~~  
8 ~~of special concern, migratory bird habitat, and intact natural~~  
9 ~~communities.~~  
10       ~~c. Significant surface waters and springs, aquatic~~  
11 ~~preserves, wetlands, and outstanding Florida waters.~~  
12       ~~d. Water resources suitable for preservation of~~  
13 ~~natural systems and for water resource development.~~  
14       ~~e. Representative and rare native Florida natural~~  
15 ~~systems.~~  
16       ~~13. Ensure the cost efficient provision of public~~  
17 ~~infrastructure and services.~~  
18       (3) Before submitting an application to the state land  
19 planning agency, the local government must hold at least two  
20 public hearings in order to solicit input concerning the local  
21 government's application for certification and at least one of  
22 those hearings must occur with the local planning agency.  
23 Local governments are also encouraged to obtain public comment  
24 through workshops with neighborhood associations, which are  
25 conducted prior to the public hearings.  
26       (4) The goal of the two public hearings required under  
27 subsection (3) is to solicit input from the public on the  
28 following issues:  
29       (a) Whether the local government should apply for  
30 certification;  
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- 1        (b) The promotion of affordable housing or workforce  
2 housing;
- 3        (c) The economic viability of agricultural and other  
4 predominantly rural land uses, and the protection and  
5 restoration of environmentally sensitive areas, while  
6 recognizing private property rights;
- 7        (d) The provision and maintenance of public open space  
8 and recreational opportunities;
- 9        (e) The management of transportation and land uses to  
10 support public transit and promote pedestrian and nonmotorized  
11 transportation;
- 12        (f) Design principles to foster individual community  
13 identity, create a sense of place, and promote  
14 pedestrian-oriented safe neighborhoods and town centers;
- 15        (g) The encouragement of clustered, mixed-use  
16 development that incorporates open space or green space and  
17 residential development within walking distance of commercial  
18 development;
- 19        (h) The encouragement of urban infill and  
20 redevelopment at appropriate densities and intensities and of  
21 separate urban and rural uses, and the discouragement of urban  
22 sprawl, while promoting and preserving public open space and  
23 planning for buffer or transitional-type land uses and rural  
24 development, consistent with their respective character, along  
25 and outside the certification area;
- 26        (i) The availability of public infrastructure and  
27 services;
- 28        (j) Local hazard-mitigation strategies and programs to  
29 improve disaster preparedness and the ability to protect lives  
30 and property, especially in coastal high-hazard areas; and  
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- 1        (k) Whether a development of regional impact within  
2 the certification area should be exempt from review by the  
3 state planning agency under s. 380.06.
- 4        (5) After the hearings required in subsection (3) but  
5 before submission of the application to the state land  
6 planning agency, the local government must adopt the  
7 application by a majority vote of the members of the governing  
8 body.
- 9        (6) In order to be eligible for certification under  
10 the program, the local government must submit an application  
11 to the state land planning agency containing the following:
- 12        (a) A map depicting the boundary of the proposed  
13 certification area, which may include all or part of a local  
14 government's jurisdiction, and which represents a compact,  
15 contiguous area appropriate for urban growth with available  
16 central water and sewer and adequate road capacity within a  
17 10-year planning timeframe;
- 18        (b) Copies of land development regulations, interlocal  
19 agreements, and other relevant information supporting the  
20 eligibility criteria for designation;
- 21        (c) Copies of the notice of the two public hearings  
22 required under subsection (3) and the records or minutes of  
23 those proceedings; and
- 24        (d) A statement concerning whether the local  
25 government wants to exempt developments of regional impact  
26 within the certification area from review by the state  
27 planning agency under s. 380.06.
- 28        (7) The state land planning agency shall consider the  
29 local government's record of effectively adopting,  
30 implementing, and enforcing its comprehensive plan in  
31 determining the local government's eligibility for



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1 certification. In addition, the state land planning agency  
2 shall consider the level of technical, financial, and  
3 administrative expertise that the local government has  
4 available to implement the provisions of this part without  
5 state oversight of individual plan amendments.

6 (8) A state or regional review agency may submit  
7 comments regarding the appropriateness of the proposed  
8 certification area to the state land planning agency within 30  
9 days after the local government submits its application.

10 (9)(3) An area Portions of local governments located  
11 within areas of critical state concern, as designated under s.  
12 380.05, may not cannot be included in a certification area.

13 (4) A local government or group of local governments  
14 seeking certification of all or part of a jurisdiction or  
15 jurisdictions must submit an application to the department  
16 which demonstrates that the area sought to be certified meets  
17 the criteria of subsections (2) and (5). The application shall  
18 include copies of the applicable local government  
19 comprehensive plan, land development regulations, interlocal  
20 agreements, and other relevant information supporting the  
21 eligibility criteria for designation.

22 (10) Upon receipt of a complete application, the state  
23 land planning agency department must provide the local  
24 government with an initial response to the application within  
25 90 days after receipt of the application.

26 (11)(5) If the local government meets the eligibility  
27 criteria of subsections (6) and (7) subsection (2), the state  
28 land planning agency department shall provide a written notice  
29 of certification for the portion of a local government's  
30 jurisdiction which is within the certification area certify  
31 all or part of a local government by written agreement, which

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1 shall be considered final agency action subject to challenge  
2 under s. 120.569. The notice of certification agreement must  
3 include the following components:

4 (a) The boundary of the certification area ~~basis for~~  
5 ~~certification.~~

6 (b) A requirement that the local government submit  
7 either an annual or biennial monitoring report to the state  
8 land planning agency according to the schedule provided in the  
9 written notice. The monitoring report must, at a minimum,  
10 include the number of amendments to the comprehensive plan  
11 adopted by the local government, the number of plan amendments  
12 challenged by an affected person, and the disposition of those  
13 challenges. ~~The boundary of the certification area, which~~  
14 ~~encompasses areas that are contiguous, compact, appropriate~~  
15 ~~for urban growth and development, and in which public~~  
16 ~~infrastructure is existing or planned within a 10-year~~  
17 ~~planning timeframe. The certification area is required to~~  
18 ~~include sufficient land to accommodate projected population~~  
19 ~~growth, housing demand, including choice in housing types and~~  
20 ~~affordability, job growth and employment, appropriate~~  
21 ~~densities and intensities of use to be achieved in new~~  
22 ~~development and redevelopment, existing or planned~~  
23 ~~infrastructure, including transportation and central water and~~  
24 ~~sewer facilities. The certification area must be adopted as~~  
25 ~~part of the local government's comprehensive plan.~~

26 ~~(c) A demonstration that the capital improvements plan~~  
27 ~~governing the certified area is updated annually.~~

28 ~~(d) A visioning plan or a schedule for the development~~  
29 ~~of a visioning plan.~~

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- 1       ~~(c) A description of baseline conditions related to~~  
2 ~~the evaluation criteria in paragraph (g) in the certified~~  
3 ~~area.~~
- 4       ~~(f) A work program setting forth specific planning~~  
5 ~~strategies and projects that will be undertaken to achieve~~  
6 ~~improvement in the baseline conditions as measured by the~~  
7 ~~criteria identified in paragraph (g).~~
- 8       ~~(g) Criteria to evaluate the effectiveness of the~~  
9 ~~certification process in achieving the community development~~  
10 ~~goals for the certification area including:~~
- 11           ~~1. Measuring the compactness of growth, expressed as~~  
12 ~~the ratio between population growth and land consumed;~~
- 13           ~~2. Increasing residential density and intensities of~~  
14 ~~use;~~
- 15           ~~3. Measuring and reducing vehicle miles traveled and~~  
16 ~~increasing the interconnectedness of the street system,~~  
17 ~~pedestrian access, and mass transit;~~
- 18           ~~4. Measuring the balance between the location of jobs~~  
19 ~~and housing;~~
- 20           ~~5. Improving the housing mix within the certification~~  
21 ~~area, including the provision of mixed use neighborhoods,~~  
22 ~~affordable housing, and the creation of an affordable housing~~  
23 ~~program if such a program is not already in place;~~
- 24           ~~6. Promoting mixed-use developments as an alternative~~  
25 ~~to single purpose centers;~~
- 26           ~~7. Promoting clustered development having dedicated~~  
27 ~~open space;~~
- 28           ~~8. Linking commercial, educational, and recreational~~  
29 ~~uses directly to residential growth;~~
- 30           ~~9. Reducing per capita water and energy consumption;~~  
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1       ~~10. Prioritizing environmental features to be~~  
2 ~~protected and adopting measures or programs to protect~~  
3 ~~identified features,~~  
4       ~~11. Reducing hurricane shelter deficits and evacuation~~  
5 ~~times and implementing the adopted mitigation strategies, and~~  
6       ~~12. Improving coordination between the local~~  
7 ~~government and school board.~~  
8       ~~(h) A commitment to change any land development~~  
9 ~~regulations that restrict compact development and adopt~~  
10 ~~alternative design codes that encourage desirable densities~~  
11 ~~and intensities of use and patterns of compact development~~  
12 ~~identified in the agreement.~~  
13       ~~(i) A plan for increasing public participation in~~  
14 ~~comprehensive planning and land use decisionmaking which~~  
15 ~~includes outreach to neighborhood and civic associations~~  
16 ~~through community planning initiatives.~~  
17       ~~(j) A demonstration that the intergovernmental~~  
18 ~~coordination element of the local government's comprehensive~~  
19 ~~plan includes joint processes for coordination between the~~  
20 ~~school board and local government pursuant to s.~~  
21 ~~163.3177(6)(h)2. and other requirements of law.~~  
22       ~~(k) A method of addressing the extrajurisdictional~~  
23 ~~effects of development within the certified area which is~~  
24 ~~integrated by amendment into the intergovernmental~~  
25 ~~coordination element of the local government comprehensive~~  
26 ~~plan.~~  
27       ~~(l) A requirement for the annual reporting to the~~  
28 ~~department of plan amendments adopted during the year, and the~~  
29 ~~progress of the local government in meeting the terms and~~  
30 ~~conditions of the certification agreement. Prior to the~~  
31 ~~deadline for the annual report, the local government must hold~~

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1 ~~a public hearing soliciting public input on the progress of~~  
2 ~~the local government in satisfying the terms of the~~  
3 ~~certification agreement.~~  
4 ~~(m) An expiration date that is no later than 10 years~~  
5 ~~after execution of the agreement.~~  
6 ~~(12)(6) The department may enter up to eight new~~  
7 ~~certification agreements each fiscal year. The state land~~  
8 ~~planning agency department shall adopt procedural rules~~  
9 governing the application and review of local government  
10 requests for certification. Such procedural rules may  
11 establish a phased schedule for review of local government  
12 requests for certification.  
13 ~~(13)(7) The state land planning agency department~~  
14 shall revoke the local government's certification if it  
15 determines that the local government is not substantially  
16 complying with the terms of the written notice required under  
17 subsection (11) or this section agreement.  
18 ~~(14)(8) An affected person, as defined by s.~~  
19 163.3184(1)(a), may petition for administrative hearing  
20 alleging that a local government is not substantially  
21 complying with the terms of the written notice required under  
22 subsection (11) or this section agreement, using the  
23 procedures and timeframes for notice and conditions precedent  
24 described in s. 163.3215 s. 163.3213. ~~Such a petition must be~~  
25 ~~filed within 30 days after the annual public hearing required~~  
26 ~~by paragraph (5)(1).~~  
27 ~~(15)(9)(a) Upon certification all comprehensive plan~~  
28 amendments associated with the area certified must be adopted  
29 and reviewed in the manner described in ss. 163.3184(1), (2),  
30 (7), (14), (15), and (16) and 163.3187, such that state and  
31 regional agency review is eliminated. The state land planning

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1 ~~agency department~~ may not issue any objections,  
2 recommendations, and comments report on proposed plan  
3 amendments or a notice of intent on adopted plan amendments;  
4 however, affected persons, as defined by s. 163.3184(1)(a),  
5 may file a petition for administrative review pursuant to the  
6 requirements of s. 163.3187(3)(a) to challenge the compliance  
7 of an adopted plan amendment.

8 (b) If it is determined that the adopted plan  
9 amendment is not in compliance and the amendment is not the  
10 subject of a pending appeal and the timeframe for filing an  
11 appeal has expired, the state land planning agency shall  
12 revoke the local government's certification. The local  
13 government may not apply for certification for a period of 3  
14 years after the date of revocation.

15 (c)(b) Plan amendments that change the boundaries of  
16 the certification area; propose a rural land stewardship area  
17 pursuant to s. 163.3177(11)(d); propose an optional sector  
18 plan pursuant to s. 163.3245; propose a school facilities  
19 element; update a comprehensive plan based on an evaluation  
20 and appraisal report that has not been determined sufficient  
21 by the state land planning agency; impact lands outside the  
22 certification boundary; ~~implement new statutory requirements~~  
23 that require specific comprehensive plan amendments; or  
24 increase hurricane evacuation times or the need for shelter  
25 capacity on lands within the coastal high hazard area shall be  
26 reviewed pursuant to ss. 163.3184 and 163.3187.

27 (16) If a local government does not request in its  
28 application for certification that the state land planning  
29 agency review proposed developments of regional impact within  
30 the certified area, an application for development order  
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1 approval within the certified area is exempt from review under  
2 s. 380.06.

3 (17) A certified local government shall transmit each  
4 adopted plan amendment to the state land planning agency.

5 (18) Each local government that is certified by the  
6 state land planning agency before July 1, 2005, is  
7 reauthorized and remains a certified local government. The  
8 state land planning agency shall send the local governments a  
9 written notice of certification as required in subsection  
10 (11).

11 (19)(10) A local government's certification shall be  
12 reviewed by the local government and the state land planning  
13 agency department as part of the evaluation and appraisal  
14 process pursuant to s. 163.3191. Within 1 year after the  
15 deadline for the local government to update its comprehensive  
16 plan based on the evaluation and appraisal report, the  
17 department shall renew or revoke the certification.

18 (20) The local government's failure to adopt a timely  
19 evaluation and appraisal report, failure to adopt an  
20 evaluation and appraisal report found to be sufficient, or  
21 failure to timely adopt amendments based on an evaluation and  
22 appraisal report found to be in compliance by the state land  
23 planning agency department shall be cause for revoking the  
24 certification agreement. The state land planning agency's  
25 department's decision to renew or revoke shall be considered  
26 agency action subject to challenge under s. 120.569.

27 (11) The department shall, by July 1 of each  
28 odd numbered year, submit to the Governor, the President of  
29 the Senate, and the Speaker of the House of Representatives a  
30 report listing certified local governments, evaluating the  
31

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1 ~~effectiveness of the certification, and including any~~  
2 ~~recommendations for legislative actions.~~

3 (21)~~(12)~~ The Office of Program Policy Analysis and  
4 Government Accountability shall prepare a report evaluating  
5 the certification program, which shall be submitted to the  
6 Governor, the President of the Senate, and the Speaker of the  
7 House of Representatives by December 1, 2007.

8 Section 2. Paragraph (a) of subsection (2) and  
9 subsection (6) of section 212.055, Florida Statutes, are  
10 amended, and subsection (8) is added to that section, to read:

11 212.055 Discretionary sales surtaxes; legislative  
12 intent; authorization and use of proceeds.--It is the  
13 legislative intent that any authorization for imposition of a  
14 discretionary sales surtax shall be published in the Florida  
15 Statutes as a subsection of this section, irrespective of the  
16 duration of the levy. Each enactment shall specify the types  
17 of counties authorized to levy; the rate or rates which may be  
18 imposed; the maximum length of time the surtax may be imposed,  
19 if any; the procedure which must be followed to secure voter  
20 approval, if required; the purpose for which the proceeds may  
21 be expended; and such other requirements as the Legislature  
22 may provide. Taxable transactions and administrative  
23 procedures shall be as provided in s. 212.054.

24 (2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.--

25 (a)1. The governing authority in each county may levy  
26 a discretionary sales surtax of 0.5 percent or 1 percent. The  
27 levy of the surtax shall be pursuant to ordinance enacted by a  
28 majority of the members of the county governing authority or  
29 ~~and~~ approved by a majority of the electors of the county  
30 voting in a referendum on the surtax. If the governing bodies  
31 of the municipalities representing a majority of the county's



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1 population adopt uniform resolutions establishing the rate of  
2 the surtax and calling for a referendum on the surtax, the  
3 levy of the surtax shall be placed on the ballot and shall  
4 take effect if approved by a majority of the electors of the  
5 county voting in the referendum on the surtax.

6       2. If the surtax was levied pursuant to a referendum  
7 held before July 1, 1993, the surtax may not be levied beyond  
8 the time established in the ordinance, or, if the ordinance  
9 did not limit the period of the levy, the surtax may not be  
10 levied for more than 15 years. The levy of such surtax may be  
11 extended only by approval of a majority of the electors of the  
12 county voting in a referendum on the surtax.

13       (6) SCHOOL CAPITAL OUTLAY SURTAX.--

14       (a) The school board in each county may levy, pursuant  
15 to resolution conditioned to take effect only upon approval by  
16 a majority vote of the electors of the county voting in a  
17 referendum or by majority vote of the county governing body, a  
18 discretionary sales surtax at a rate that may not exceed 0.5  
19 percent.

20       **(b) If the tax is levied by a majority of the county**  
21 **governing body, the school board shall use due diligence and**  
22 **sound business practices in the design, construction, and use**  
23 **of educational facilities, and may not exceed the maximum cost**  
24 **per student station established in s. 1013.72(2).**

25       **(c) ~~(b)~~** The resolution shall include a statement that  
26 provides a brief and general description of the school capital  
27 outlay projects to be funded by the surtax. The statement  
28 shall conform to the requirements of s. 101.161 and shall be  
29 placed on the ballot by the governing body of the county. The  
30 following question shall be placed on the ballot:  
31

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1       ....FOR THE                       ....CENTS TAX

2       ....AGAINST THE                   ....CENTS TAX

3

4       ~~(d)(e)~~ The resolution providing for the imposition of  
5 the surtax shall set forth a plan for use of the surtax  
6 proceeds for fixed capital expenditures or fixed capital costs  
7 associated with the construction, reconstruction, or  
8 improvement of school facilities and campuses which have a  
9 useful life expectancy of 5 or more years, and any land  
10 acquisition, land improvement, design, and engineering costs  
11 related thereto. Additionally, the plan shall include the  
12 costs of retrofitting and providing for technology  
13 implementation, including hardware and software, for the  
14 various sites within the school district. Surtax revenues may  
15 be used for the purpose of servicing bond indebtedness to  
16 finance projects authorized by this subsection, and any  
17 interest accrued thereto may be held in trust to finance such  
18 projects. Neither the proceeds of the surtax nor any interest  
19 accrued thereto shall be used for operational expenses.

20       ~~(e)(d)~~ Any school board receiving proceeds from  
21 ~~imposing~~ the surtax shall implement a freeze on noncapital  
22 local school property taxes, at the millage rate imposed in  
23 the year prior to the implementation of the surtax, for a  
24 period of at least 3 years from the date of imposition of the  
25 surtax. This provision shall not apply to existing debt  
26 service or required state taxes.

27       ~~(f)(e)~~ Surtax revenues collected by the Department of  
28 Revenue pursuant to this subsection shall be distributed to  
29 the school board imposing the surtax in accordance with law.

30       (8) CITIZENS' REVIEW AND OVERSIGHT BOARD.--Before  
31 levying a tax or extending a tax under subsection (2) or

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1 subsection (6), a county must establish a citizens' review and  
2 oversight board for the purposes of enhancing public  
3 participation in the development of a plan for the use of the  
4 tax proceeds and increasing local government accountability  
5 relating to the expenditure of the tax proceeds to implement  
6 the plan. The governing body of the local government levying  
7 the tax shall appoint members to the board who represent  
8 business interests, transportation interests, planning  
9 professionals, neighborhood associations, and other interested  
10 parties. If the local government is levying a surtax under  
11 subsection (6), the board shall also include members that  
12 represent the school district.

13 (a) The board shall hold meetings quarterly or at the  
14 request of the local governing body. A quorum shall consist of  
15 a majority of the board members and is necessary to take any  
16 action regarding recommendations to the governing body of the  
17 local government.

18 (b) The local government shall provide staff support  
19 to the board for its meetings. All board meetings held  
20 pursuant to this subsection are open to the public and minutes  
21 of the meeting shall be made available to the public.

22 Section 3. Paragraph (b) of subsection (1) of section  
23 336.025, Florida Statutes, is amended to read:

24 336.025 County transportation system; levy of local  
25 option fuel tax on motor fuel and diesel fuel.--

26 (1)

27 (b) In addition to other taxes allowed by law, there  
28 may be levied as provided in s. 206.41(1)(e) a 1-cent, 2-cent,  
29 3-cent, 4-cent, or 5-cent local option fuel tax upon every  
30 gallon of motor fuel sold in a county and taxed under the  
31 provisions of part I of chapter 206. The tax shall be levied

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1 by an ordinance adopted by a majority ~~plus one~~ vote of the  
2 membership of the governing body of the county or by  
3 referendum.

4       1. All impositions and rate changes of the tax shall  
5 be levied before July 1, to be effective January 1 of the  
6 following year. However, levies of the tax which were in  
7 effect on July 1, 2002, and which expire on August 31 of any  
8 year may be reimposed at the current authorized rate effective  
9 September 1 of the year of expiration.

10       2. The county may, prior to levy of the tax, establish  
11 by interlocal agreement with one or more municipalities  
12 located therein, representing a majority of the population of  
13 the incorporated area within the county, a distribution  
14 formula for dividing the entire proceeds of the tax among  
15 county government and all eligible municipalities within the  
16 county. If no interlocal agreement is adopted before the  
17 effective date of the tax, tax revenues shall be distributed  
18 pursuant to the provisions of subsection (4). If no interlocal  
19 agreement exists, a new interlocal agreement may be  
20 established prior to June 1 of any year pursuant to this  
21 subparagraph. However, any interlocal agreement agreed to  
22 under this subparagraph after the initial levy of the tax or  
23 change in the tax rate authorized in this section shall under  
24 no circumstances materially or adversely affect the rights of  
25 holders of outstanding bonds which are backed by taxes  
26 authorized by this paragraph, and the amounts distributed to  
27 the county government and each municipality shall not be  
28 reduced below the amount necessary for the payment of  
29 principal and interest and reserves for principal and interest  
30 as required under the covenants of any bond resolution  
31

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1 outstanding on the date of establishment of the new interlocal  
2 agreement.

3         3. County and municipal governments shall use moneys  
4 received pursuant to this paragraph for transportation  
5 expenditures needed to meet the requirements of the capital  
6 improvements element of an adopted comprehensive plan or for  
7 expenditures needed to meet immediate local transportation  
8 problems and for other transportation-related expenditures  
9 that are critical for building comprehensive roadway networks  
10 by local governments. For purposes of this paragraph,  
11 expenditures for the construction of new roads, the  
12 reconstruction or resurfacing of existing paved roads, or the  
13 paving of existing graded roads shall be deemed to increase  
14 capacity and such projects shall be included in the capital  
15 improvements element of an adopted comprehensive plan.  
16 Expenditures for purposes of this paragraph shall not include  
17 routine maintenance of roads.

18         Section 4. Section 201.032, Florida Statutes, is  
19 created to read:

20         201.032 Local option real estate transfer surtax on  
21 deeds; conditions of levy; use of proceeds.--

22         (1) Subject to subsections (9) and (10), the governing  
23 authority of a county may levy a surtax on documents that are  
24 taxed under s. 201.02, at a rate not exceeding 5 cents on each  
25 \$100 or fractional part thereof of the consideration for the  
26 real estate or interest therein. The grantor of the real  
27 estate or interest therein shall pay the surtax.

28         (2) The levy of the surtax shall be pursuant to an  
29 ordinance conditioned to take effect only upon approval by a  
30 majority vote of the electors of the county voting in a  
31 referendum or pursuant to an ordinance enacted by an

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1 extraordinary vote of the governing authority of the county.  
2 The governing authority of the county must hold a public  
3 hearing at least 2 weeks before the formal adoption of the  
4 ordinance.

5 (3) The governing authority of the county shall notify  
6 the Department of Revenue within 10 days after final adoption  
7 by ordinance or referendum of an imposition, termination, or  
8 rate change of the surtax. The notice must specify the period  
9 during which the surtax will be in effect and the rate of the  
10 surtax and must include a copy of the ordinance and such other  
11 information as the department requires by rule. Failure to  
12 timely provide such notification to the department shall  
13 result in the delay of the effective date of the surtax for a  
14 period of 1 year. A surtax or an increase or decrease in the  
15 rate of the surtax must take effect on January 1 and must  
16 terminate on December 31.

17 (4) If the surtax is conditioned to take effect only  
18 upon approval by a majority vote of the electors of the county  
19 voting in a referendum, the county governing authority shall  
20 place on the ballot a statement that includes a brief general  
21 description of the projects to be funded by the surtax and  
22 that conforms to the requirements of s. 101.161 and reads as  
23 follows:

24 FOR the surtax

25 AGAINST the surtax

26 (5) Proceeds of the surtax may be used only to provide  
27 infrastructure necessary to implement adopted local government  
28 comprehensive plans. As used in this subsection, the term  
29 "infrastructure" means any fixed capital expenditure or fixed  
30 capital outlay associated with the construction,  
31 reconstruction, or improvement of public facilities that have

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1 a life expectancy of 5 or more years and any land acquisition  
2 or land improvement, design, or engineering costs related  
3 thereto.  
4 (6) Proceeds of the surtax may be pledged by the  
5 governing authority of the county to pay principal and  
6 interest on bonds issued for the provision of infrastructure  
7 pursuant to subsection (5). If the proceeds are pledged to  
8 secure principal and interest due on such bonds, the pledge  
9 constitutes a valid and legally binding contract between the  
10 governing authority of the county and the bondholders, and the  
11 governing authority of the county must continue to levy the  
12 surtax as long as any bonds are outstanding.  
13 (7) The Department of Revenue shall administer the  
14 surtax pursuant to s. 201.11. Section 201.15 does not apply to  
15 this surtax. A portion of the tax proceeds, not to exceed 1  
16 percent, may be used to pay the department's cost of  
17 collection and enforcement of the surtax.  
18 (8) The governing authority of a county that receives  
19 the proceeds of the surtax authorized by this section may not  
20 apply the proceeds of the surtax, or any other funds  
21 designated as capital outlay funds, to operating costs. Each  
22 governing authority of the county that levies a surtax shall,  
23 within 90 days after the close of its fiscal year, submit to  
24 the Department of Financial Services a financial report that  
25 contains information showing the use of the surtax proceeds.  
26 (9) If the governing authority of a county does not  
27 impose an impact fee and chooses to levy the surtax pursuant  
28 to this section, the governing authority of the county may not  
29 levy any impact fee until the ordinance imposing this surtax  
30 has been rescinded and all obligations against which the  
31 surtax revenues have been pledged are satisfied.

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- 1       (10) If the governing authority of a county imposes a  
2 surtax pursuant to this section, the governing authority may  
3 not increase the rate of any impact fee beyond the rate  
4 imposed on January 1, 2003, and may not impose an additional  
5 impact fee until the ordinance imposing this surtax has been  
6 rescinded and all obligations against which the surtax  
7 revenues have been pledged are satisfied.
- 8       (11) The Department of Revenue shall adopt rules  
9 pursuant to ss. 120.536(1) and 120.54 to design, prepare,  
10 print, and adopt forms to implement and enforce the provisions  
11 of this section. Such forms must be used and recorded on any  
12 document that conveys a specific interest in real property,  
13 pursuant to the requirements of this section, in the county  
14 imposing the surtax. At the time of recording, the surtax must  
15 be paid to the clerk of the court. The clerk shall collect and  
16 remit the surtax to the Department of Revenue for distribution  
17 to the county levying the surtax. The clerk may retain 1  
18 percent of the surtax paid as a service charge of the clerk's  
19 office.
- 20       (12) The Department of Revenue may adopt emergency  
21 rules under ss. 120.536(1) and 120.54(4) to implement and  
22 enforce the provisions of s. 201.032. The emergency rules  
23 shall remain in effect until the adoption of permanent rules  
24 as provided in s. 201.032.
- 25       (13) Taxes imposed by this section do not apply to a  
26 deed, transfer, or conveyance between spouses or former  
27 spouses pursuant to an action for dissolution of marriage  
28 wherein the real property is or was their marital home or an  
29 interest therein. Taxes paid pursuant to this section shall be  
30 refunded in those cases in which a deed, transfer, or  
31 conveyance occurred 1 year before a dissolution of marriage.



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1 This subsection applies in spite of any consideration as  
2 defined in subsection (1).

3 Section 5. This act shall take effect July 1, 2005.

4  
5 \*\*\*\*\*

6 SENATE SUMMARY

7 Revises the Local Government Comprehensive Planning  
8 Certification Program. Requires that a local government  
9 develop a map, certain plans, and disaster strategies in  
10 order to be certified under the program. Requires public  
11 hearings. Revises the requirements for filing a petition  
12 for an administration hearing concerning an agreement.  
13 Provides that an application for development approval  
14 within a certified area is exempt from review as a  
15 development of regional impact under certain  
16 circumstances. Deletes a requirement that the local  
17 government infrastructure surtax be subject to voter  
18 approval. Provides for a majority of a county's governing  
19 body to levy a school capital outlay surtax and a local  
20 option fuel tax. Requires the creation of a citizens'  
21 oversight and review board before levying or extending  
22 the school capital outlay surtax or the infrastructure  
23 sales surtax. Authorizes a surtax on deeds and other  
24 documents that are subject to the documentary stamp tax.  
25 Provides for voters or the local governing authority to  
26 approve the surtax. Provides requirements for  
27 administering the surtax on deeds and other documents.  
28 (See bill for details.)  
29  
30  
31